

By: Thompson of Harris, White,  
Johnson of Dallas, Wu

H.B. No. 574

Substitute the following for H.B. No. 574:

By: Johnson of Harris

C.S.H.B. No. 574

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on the authority to arrest a person for  
certain misdemeanors punishable by a fine only.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is  
amended by adding Articles 2.1386 and 2.1387 to read as follows:

Art. 2.1386. CITE AND RELEASE POLICY. (a) In this article,  
"law enforcement agency" means an agency of the state or an agency  
of a political subdivision of the state authorized by law to employ  
peace officers.

(b) The Texas Commission on Law Enforcement, in  
consultation with law enforcement agencies, law enforcement  
associations, law enforcement training experts, and community  
organizations engaged in the development of law enforcement policy,  
shall adopt a written model policy regarding the issuance of  
citations for misdemeanor offenses, including traffic offenses,  
that are punishable by a fine only. The policy must provide a  
procedure for a peace officer, on a person's presentation of  
appropriate identification, to verify the person's identity and  
issue a citation to the person. The policy must comply with  
Articles 14.01 and 14.03 of this code and Sections 543.001 and  
543.004, Transportation Code.

(c) Each law enforcement agency shall adopt a written policy  
regarding the issuance of citations for misdemeanor offenses,

1 including traffic offenses, that are punishable by a fine only. The  
2 policy must meet the requirements for the model policy described by  
3 Subsection (b). A law enforcement agency may adopt the model policy  
4 adopted by the Texas Commission on Law Enforcement under Subsection  
5 (b).

6 Art. 2.1387. RECORD OF WARRANTLESS ARREST. (a) A law  
7 enforcement agency, as defined by Article 2.1386, shall maintain a  
8 record of a warrantless arrest for a misdemeanor offense, including  
9 a traffic offense, that is punishable by a fine only until at least  
10 the first anniversary of the date of the arrest. The record must  
11 include the arresting peace officer's justification for the arrest.

12 (b) Unless otherwise provided by law, an arrest record  
13 described by Subsection (a) is not confidential and is subject to  
14 disclosure under Chapter 552, Government Code.

15 SECTION 2. Article 14.01, Code of Criminal Procedure, is  
16 amended by adding Subsections (c) and (d) to read as follows:

17 (c) Notwithstanding Subsection (a) or (b), a peace officer  
18 or any other person may not, without a warrant, arrest an offender  
19 who commits only one or more offenses punishable by a fine only,  
20 other than an offense under Section 49.02, Penal Code, unless the  
21 officer or person has probable cause to believe that:

22 (1) the failure to arrest the offender creates a clear  
23 and immediate danger to the offender or the public;

24 (2) the failure to arrest the offender will allow a  
25 continued breach of the public peace; or

26 (3) the offender will not appear in court in  
27 accordance with the citation.

1        (d) For purposes of Subsection (c)(3), an unpaid fine  
2 arising from the commission of a misdemeanor punishable by a fine  
3 only under Subtitle C, Title 7, Transportation Code, does not  
4 constitute probable cause to believe that the offender will fail to  
5 appear in court.

6        SECTION 3. Article 14.03, Code of Criminal Procedure, is  
7 amended by adding Subsection (h) to read as follows:

8        (h) Notwithstanding Subsection (a), (d), or (g), a peace  
9 officer may not, without a warrant, arrest a person who commits only  
10 one or more offenses punishable by a fine only, other than an  
11 offense under Section 49.02, Penal Code, unless the officer has  
12 probable cause as described by Articles 14.01(c) and (d).

13        SECTION 4. Section 543.001, Transportation Code, is amended  
14 to read as follows:

15        Sec. 543.001. ARREST WITHOUT WARRANT AUTHORIZED. Any peace  
16 officer may arrest without warrant a person found committing a  
17 violation of this subtitle, except that the officer may not arrest a  
18 person found committing only one or more misdemeanors punishable by  
19 a fine only unless the officer has probable cause as described by  
20 Articles 14.01(c) and (d), Code of Criminal Procedure.

21        SECTION 5. Section 543.004(a), Transportation Code, is  
22 amended to read as follows:

23        (a) Unless the officer is authorized to arrest the person  
24 under Section 543.001, an [An] officer shall issue a written notice  
25 to appear if:

26                (1) the offense charged is ~~[speeding or]~~ a misdemeanor  
27 under this subtitle punishable by a fine only ~~[violation of the open~~

1 ~~container law, Section 49.03, Penal Code]~~; and

2           (2) the person makes a written promise to appear in  
3 court as provided by Section 543.005.

4           SECTION 6. The changes in law made by this Act apply only to  
5 an offense committed on or after the effective date of this Act. An  
6 offense committed before the effective date of this Act is governed  
7 by the law in effect on the date the offense was committed, and the  
8 former law is continued in effect for that purpose. For purposes of  
9 this section, an offense was committed before the effective date of  
10 this Act if any element of the offense occurred before that date.

11           SECTION 7. (a) Not later than January 1, 2018, the Texas  
12 Commission on Law Enforcement shall adopt the model policy required  
13 by Article 2.1386(b), Code of Criminal Procedure, as added by this  
14 Act.

15           (b) Not later than March 1, 2018, each law enforcement  
16 agency in this state shall adopt the policy required by Article  
17 2.1386(c), Code of Criminal Procedure, as added by this Act.

18           SECTION 8. This Act takes effect September 1, 2017.